

PROBATE CALENDAR NOTES
September 4, 2020
8:30 AM, Department 40
Placer County Superior Court

All current local court COVID-19 information is at <http://www.placer.courts.ca.gov/general-covid-19.shtml>. In particular, please note:

Local Rule 10.28, "Remote Appearances—COVID-19 State of Emergency Temporary Rule," enacted April 6, 2020, requires remote telephone appearances for most court hearings. See Local Rule 10.28 for more details.

Local Rule 10.27, "eDelivery," requires electronic filing of documents by attorneys and represented parties. *Due to possible delays in processing new filings, it is recommended all papers be filed at the earliest opportunity.*


These calendar notes are provided pursuant to Local Rule 80.1.4 for the probate calendar set for hearing **September 4, 2020, 8:30 AM, in Department 40**, Commissioner Glenn M Holley, presiding. Pursuant to Local Rule 80.1.4, these calendar notes are **not** a tentative ruling on the merits of any matter before the court.

Updated notes may be posted at any time. Notes will generally be updated the court day prior to the hearing. Staff may respond to limited questions concerning calendar notes; however, court staff may not give legal advice to parties or attorneys. Messages may be left for the Office of Legal Research at (916) 408-6119.

1. S-PR-0000148 James, Mary Nickel - In Re the Estate of

Appearance is required for continued hearing.

Current status is needed.

 As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

2. S-PR-0005133 Cooper, Sheila - In re Conservatorship of

First successor conservator account is recommended for approval as prayed.

3. S-PR-0007316 Nancy L Bergold Fam Trust; In re the

Missing service of notice of hearing to Michael Bergold. Direct service is required, C.R.C. 7.51, Prob.C. § 1214.

Clarification / revision is needed: summary of account given at ¶ 11 of the petition cannot be reconciled either with itself or with the summary and account attached to the petition. Charges do not balance; credits do not balance; charges and credits conflict with each other and do not balance. Income receipts appear to be omitted from charges, but total charges are irreconcilable with our without income receipts as stated in attached account.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

4. S-PR-0008099 King, Jr., Robert Emet - Estate of:

Petition for final distribution

Missing notice of hearing on petition for final distribution. Missing service of notice of hearing.

Account was more than 8 months out of date when filed, without explanation. Current account is needed.

Petition requests fees and costs for both personal representative and counsel which far exceed available property on hand. Revised request is needed.

Motion to be relieved as counsel of record

It is recommended the motion be denied. Missing notice of hearing on motion to be relieved as counsel of record. Missing service of notice of motion. The grounds alleged in the declaration in support appear to be substantially undermined by personal representative's return to participation in the proceeding.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

5. S-PR-0008487 Wolfgram Liv Trust; In re the

Missing trustee account, as ordered by the court March 24, 2020. It is recommended this proceeding be dropped from calendar due to trustee's failure to account and petitioners' apparent failure to seek to advance the petition..

6. S-PR-0008980 Lida M Weidlich Trust; In re the

Missing notice of hearing on second trustee account. Missing service of notice of hearing.

Clarification is needed: account was approximately one year out of date when filed, without explanation.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

7. S-PR-0009178 George Doney Spec Needs Trust; In re the

Appearance is required for hearing on trustee account.

Clarification is needed: account was approximately 10 months out of date when filed, without explanation.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

8. S-PR-0009187 Barber, Ben Walter-In Re the Estate of

Missing direct service of notice of hearing to Michael Barber, Prob.C. § 1214, C.R.C. 7.51. Service in care of attorney is insufficient without a written direction for such service. Request for special notice filed October 2018 indicated service should be given both to Barber and to counsel.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

9. S-PR-0009615 Adler, Virginia L.-In Re the Estate of

Petition for final distribution is recommended for approval as prayed.

10. S-PR-0009616 Higgins, George P.-In Re the Estate of

Petition for final distribution is recommended for approval as prayed.

11. S-PR-0009661 Patton, Stephen M. - In Re Estate of

Missing evidence showing payment, satisfaction, or withdrawal of paid creditor claims. Note: there is no indication in the file any creditor claim filed by petitioner was ever submitted to the court for approval after personal representative approval, as required.

Clarification is needed: prayer for relief does not include any request with respect to petitioner's outstanding creditor claim.

12. S-PR-0009737 Kaminski, George James Jr.; In re the estate of

Petition for final distribution is recommended for approval as prayed.

13. S-PR-0009820 Graham, Shawna - In Re Estate of

Appearance is required for hearing on amended petition to determine expenses of administration and application of real property sale proceeds.

Missing notice of hearing. Missing service of notice of hearing. C.R.C. 7.53. This petition is not at issue; it is recommended the October trial dates be dropped.

Points and authorities needed: petitioner offers no points and authorities showing that the court may compel the creditors to submit involuntarily to a short sale of the estate real property by surrendering their security interests therein.

Additional allegations / declaration(s) needed: personal representative should submit additional verified allegations and / or declaration(s) to show the reasonableness of the anticipated more than \$40,000 in extraordinary attorney fees where the has no net value.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

14. S-PR-0009891 Smiley, Thomas Paul; In re the estate of

Clarification is needed: the court will not ordinarily order payment of fees or other expenditures related to final distribution where there is no cash in the estate. Additional allegations are needed showing how requested attorney fees and costs are to be paid.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

15. S-PR-0009949 Lynch, Timothy-In re the Estate of

Petition for final distribution is recommended for approval as prayed.

16. S-PR-0010070 Ahern, Margaret M. - In Re Estate Of

Missing notice of hearing. Missing service of notice of hearing. Prob.C. § 8522(b).

Missing relationship of petitioner to decedent (¶¶ 3g(2) & 8).

Missing identification of personal representative of the estate of Alice Sparling.

Missing waiver of bond by personal representative of the estate of Alice Sparling.

Note: missing signed duties form (DE-147). The clerk cannot issue letters until the signed duties form is filed, C.R.C. 7.150.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

17. S-PR-0010111 Moreland, Donna L. - In re the Estate of

Missing required allegations at 5a(7)-(8) (issue of predeceased child(ren)).

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

18. S-PR-0010121 Angela Marie Lopes Trust - In re the

Appearance is required for continued hearing on amended petition to approve resignation of trustee and appointment of successor trustee, and to approve trustee accounts.

First trustee account

It is recommended approval of the first trustee account be denied.

The trust requires that all net income be distributed to beneficiary Angela Marie Lopes at least annually, and does not appear to permit the distribution of any principal to her until age 61. § 5.3.2.2(A)(2)(a). This limitation necessarily requires trustee to allocate receipts to principal and income. See also § 7.1.17, expressly requiring

allocation under the RUIA. The account and response to calendar notes establish that disbursements and distributions both exceeded recorded trust income, and, as a consequence, excess distributions to beneficiary were of trust principal in apparent derogation of the limitations of § 5.3.2.2(A)(2)(a).

Amended second trustee account

It is recommended approval of the amended second trustee account be denied.

The trust requires that all net income be distributed to beneficiary Angela Marie Lopes at least annually, and does not appear to permit the distribution of any principal to her until age 61. § 5.3.2.2(A)(2)(a). This limitation necessarily requires trustee to allocate receipts to principal and income. See also § 7.1.17, expressly requiring allocation under the RUIA. The amended second trustee account fails to allocate distributions to income or principal, and likely reveals that that distributions far exceed recorded net trust income. The account is insufficient to show the reasonableness or appropriateness of any distributions.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

19. S-PR-0010142 Riesco, Mario ; In re the Matter of

Missing 15 days' personal service of notice of hearing to Transamerica. Service by mail is not sufficient, Prob.C. § 4544(b).

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

20. S-PR-0010147 Wenge, Fredrik Osvald ; In re the Estate of

Missing proof of will. Original will is not self-proving (witnesses did not execute a declaration or affidavit).

Petitioner is not named in the will as executor. If appointed, petitioner will serve as administrator with will annexed.

Missing required allegations at ¶ 5a(3)-(4) (RDP) and (7)-(8) (issue of predeceased child(ren)). Petitioner's amendatory declaration introduced a conflict in ¶¶ 5, 6 and 8. Use of ¶ 6 constitutes an affirmative allegation that decedent left no issue. However, petitioner identifies herself as a child of decedent. Clarification is needed.

Missing signed duties form (DE-147). Clerk cannot issue letters until signed duties form is filed, C.R.C. 7.150.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

21. S-PR-0010303 Smith, Bradley David - In re the Estate of

Clarification is needed: ¶ 9 and Attachment 14 allege decedent was survived by a child and grandchildren, but ¶ 10c alleges decedent was survived by "no issue." Grandchildren are listed in Attachment 14 without explanation; unless they are issue of a predeceased child, it appears they should not be listed.

Missing required referee appraisal of all non-cash assets. Prob.C. § 13152(b). Proposed inventory and appraisal erroneously lists estate liabilities. Revised inventory and appraisal with referee appraisal is required.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

22. S-PR-0010304 Gulley, Tina L - In re the Estate of

Petition to administer estate is recommended for approval as prayed.

23. S-PR-0010311 Huguette N Burnett Rev Trust; In re the

Petition to surcharge trustee and for damages

Appearance is required for continued hearing on petition to surcharge trustee and for damages.

Petition for instructions

Appearance is required for continued hearing on petition for instructions.

Demurrer and motion to strike

The demurrer and motion to strike are scheduled on the law and motion calendar, and tentative rulings will be issued by the court through civil law and motion procedures.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

24. S-PR-0010322 Virginia L Zimmerman Fam Trust- In re the

Appearance is required for continued hearing on petition to determine validity of trust amendment and for other relief.

Current status is needed.

☎ As described above, to appear for the hearing, use of remote telephone appearance system is generally required. See Local Rule 10.28 or contact the clerk's office for information.

25. S-PR-0010397 James A Crull Liv Trust; In re the

Petition to accept waiver of trustee account and remove trust from continuing court jurisdiction is recommended for approval as prayed.

26. S-PR-0010401 Dunakin, Angela Francesca - In Re Estate of

Petition to administer estate is recommended for approval as prayed.